

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

WILLIAM C. BARLOW,

Plaintiffs,

v.

BNC MORTGAGE INC.; et al.,

Defendants.

3:09-cv-00677-LRH-RAM

ORDER

Before the court is defendants' motion to stay the proceedings pending a decision of the Judicial Panel on Multidistrict Litigation. Doc. #35<sup>1</sup>.

**I. Facts and Procedural History**

In 2009, the United States Judicial Panel on Multi-District Litigation ("panel") consolidated numerous cases in which plaintiffs allege that MERS engaged in improper business practices when processing home loans. The panel assigned Judge Teilborg in the District of Arizona to oversee these cases, and he will preside over all issues (discovery, dispositive motions, settlement) except for trials. *In re: Mortgage Electronic Registration Systems (MERS) Litigation*, MDL No. 2119. In its decision to create this MDL litigation, the Panel consolidated nine cases from Nevada, but noted that additional "tag-along" cases with similar factual issues could be added to the list of consolidated cases.

<sup>1</sup> Refers to the court's docket entry number.

1 Following the panel's decision, MERS moved to add numerous "tag-along" cases  
2 to the MDL, one of which is the current matter *Barlow v. BNC Mortgage Inc., et al.*, 3:09-cv-0677-  
3 LRH-RAM. The panel ruled on MERS's tag-along motions in a series of letters issued in  
4 December 2009, and January and February 2010. The panel granted MERS' request to add the  
5 present case to the pending multi-district litigation, but only as to those individual claims that  
6 "relate to the formation and/or operation of MERS." The Panel further indicated that "all claims in  
7 these actions that are unrelated to the formation and/or operation of the MERS system are  
8 separately and simultaneously remanded" to the district court in which they were first brought.

## 9 **II. Discussion**

10 In the present matter, MERS filed a motion to stay the proceedings until the panel issued an  
11 order on MERS's tag-along motions and determined whether the present matter would be  
12 consolidated. The panel has already issued an order transferring this matter to MDL thereby  
13 alleviating MERS's expressed need for a stay as illuminated in the present motion.

14 However, the court notes that MERS and the many individual plaintiffs in the tag-along  
15 cases have filed motions with Judge Teilborg in which they dispute which claims should be part of  
16 the MDL and which should be remanded to their original district. Judge Teilborg will be deciding  
17 these issues once the matter is fully briefed. Because of the high volume of cases involved in these  
18 motions, it will be a number of months until Judge Teilborg has ruled on all of the issues affecting  
19 this case. Thus the court finds that moving forward with the present matter would be improper until  
20 it is determined which defendants and claims are to be remanded to this court. Accordingly, the  
21 court hereby stays all proceedings in this case until Judge Teilborg's ruling.

22 \\\

23 \\\

24 \\\

25 \\\

1 IT IS THEREFORE ORDERED that defendants' motion to stay (Doc. #35) is GRANTED.

2 IT IS FURTHER ORDERED that all proceedings in this case are STAYED pending Judge  
3 Teilborg's order to remand defendants and claims back to this court.

4 IT IS SO ORDERED.

5 DATED this 5<sup>th</sup> day of March, 2010.



---

6  
7 LARRY R. HICKS  
8 UNITED STATES DISTRICT JUDGE  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26